

September 27, 1948

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Honorable Fletcher West Timmerman,
House of Representatives
State Capitol
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Timmerman:

In reply to your request for the laws relating to the sale of liquor to Indians we submit the following:

Paragraph 8 of Section 20 of the Arizona Enabling Act reads:

"* * * Eighth. That whenever hereafter any of the lands contained within Indian reservations or allotments in said proposed state shall be allotted, sold, reserved, or otherwise disposed of, they shall be subject, for a period of twenty-five years after such allotment, sale, reservation, or other disposal, to all the laws of the United States prohibiting the introduction of liquor into the Indian country."

The United States has prohibited the introduction into or sale within Indian Reservations by an Act found in Title 25, Section 241, United States Code Annotated, which reads in part as follows:

"Intoxicating liquors; selling in, or introducing into, Indian country; penalties; defenses; arrest and trial

Any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication to any Indian to whom an allotment of land has been made while the title to the same shall be held in trust by

the Government, or to any Indian who is a ward of the Government under charge of any Indian superintendent or agent, or to any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and any person who shall introduce or attempt to introduce any malt, spirituous or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, which term shall include any Indian allotment which the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without consent of the United States, shall be punished for the first offense by imprisonment for not more than one year, and by a fine of not more than \$500, and for the second offense and each offense thereafter by imprisonment for not more than five years, and by a fine of not more than \$2,000; * * * *."

The Arizona law prohibiting sale of liquor to Indians is found in Section 43-3101, A.C.A. 1939:

"Furnishing intoxicating liquors to Indians.— Any person who sells or furnishes to any Indian of whole or mixed blood any tulapai, tswin or corn beer shall be guilty of a misdemeanor."

From the above laws it is clear that when Arizona was admitted into the Union the Congress provided that no liquor should be introduced into the Indian Reservations, and further the Indian land should be free of liquor for twenty-five years after the Government parted with the title thereto.

The United States Code also not only prohibits introduction of liquor into the Indian country, which includes all reservations, but prohibits the sale of liquor to any Indian

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in charge of any Indian superintendent either inside or outside of a reservation and makes such sale a criminal offense.

The Arizona Legislature in support of the Enabling Act and Federal Statutes enacted our State law making it a misdemeanor to sell, etc., certain named intoxicating liquors to any Indian. This is the only Arizona law dealing with this subject.

In reply to your question relative to the handing out of cards or political literature on Election Day, attention is called to a portion of Section 55-516, A.C.A., 1939:

"Violations and penalties.- (a) Every person who shall electioneer on election day within a polling place, or in a public manner within one hundred and fifty (150) feet of a polling place; or shall hand out or offer to hand out any candidates' cards or political literature of any kind on the day of any election; * * *."

This law has been construed by the Attorney General's Office to mean literally that no political literature may be circulated any place in the State on Election Day. This opinion has been given verbally to a number of the County Attorneys and we believe this policy is being generally followed throughout the State.

Very truly yours,

EVO De CONCINI
Attorney General

PERRY M. LING
Chief Assistant
Attorney General

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